

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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BENAMAX ICE, LLC

CIVIL ACTION NO.

Plaintiffs,

vs.

MERCHANTS MUTUAL INSURANCE COMPANY,  
JOHN DOES (1-10) AND ABC COMPANIES (1-10),

Defendants.

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**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Merchants Mutual Insurance Company (hereinafter “Merchants”) submits the following Notice of Removal from the Superior Court of New Jersey, Camden County, the Court in which the above-referenced mater is now pending, to the United States District Court for the District of New Jersey. In support of its Notice of Removal, Merchants states as follows:

**NATURE OF ACTION**

1. Plaintiff, Benamax Ice LLC (“Plaintiff”) commenced this lawsuit against Merchants in the Superior Court of New Jersey, Camden County, docket no. CAM-L-001862-20, by filing a Complaint on May 29, 2020 (the “Action”). *See* Ex. A.
2. This Action is an insurance coverage dispute. Plaintiff alleges that Merchants insured them pursuant to an Advantage Plus Businessowners Policy bearing policy no. BOPI083506 for the policy period of February 15, 2020 to February 15, 2021 (the “Policy”) and covered Plaintiff’s food service establishment located at 101 Haddon Avenue, Westmont, New Jersey 08108 (the “Property”). *See* Ex. A ¶¶ 8-11

3. Plaintiff alleges that Merchants incorrectly denied its claim for business interruption coverage due to the COVID-19 pandemic. *See* Ex. A ¶¶ 15-22.

4. Pursuant to 28 U.S.C. § 1445(a) Merchants attaches copies of all process, pleadings and orders served upon it including:

a) A true and correct copy of Plaintiff's Complaint, dated May 29, 2020. *See* Ex. A.

b) A true and correct copy of the summons served on Merchants. *See* Ex. B.

#### **TIMELINESS OF REMOVAL**

5. Merchants was served with a copy of the Complaint on June 4, 2020. This Notice of Removal is being filed within thirty (30) days after service of Plaintiff's Complaint, and is therefore timely pursuant to 28 U.S.C. § 1446(b).

#### **AMOUNT IN CONTROVERSEY**

6. Plaintiff's Complaint seeks damages for Merchants' alleged wrongful denial of benefits under the Policy.

7. Merchants respectfully submits that the amount in controversy exceeds \$75,000, exclusive of interest and costs, because Plaintiff seeks to recover its unspecified loss of business income after being shut down due to the COVID-19 pandemic from March 21, 2020 to present, and for continuing business income losses.

**DIVERSITY OF CITIZENSHIP**

8. According to Plaintiff's Complaint, Plaintiff is a limited liability company organized under the laws of the State of New Jersey with a mailing address of 124 Mayfair Lane, Mount Laurel, NJ 08054. *See* Ex. A at ¶ 1.

9. According to a status report obtained from the State of New Jersey Division of Revenue and Enterprise Services dated June 18, 2020, the only member of Plaintiff is Michael Vizzoca, who resides at 124 Mayfair Lane, Mount Laurel, NJ 08054. *See* Ex. C.

10. Plaintiff's food establishment is located at 101 Haddon Avenue, Westmont, NJ 08108. *See* Ex. A at ¶ 7.

11. Merchants is an insurance company organized under the laws of New York with its principle place of business located at 250 Main Street, Buffalo, New York.

12. Pursuant to 28 U.S.C. § 1332(a)(1), full diversity exists among Plaintiff and Merchants because Merchants is a citizen of New York and maintains its principal place of business in a state other than where Plaintiff is deemed to reside.

**PLEA FOR REMOVAL**

13. Insofar as the amount in controversy is alleged to exceed \$75,000 and full diversity exists between the parties, removal to this Court is proper pursuant to 28 U.S.C. § 1332(a) and 28 U.S.C. § 1441 (a). Written notice is being given to all parties and to the Clerk of the Superior Court of New Jersey, Camden County, that this Notice of Removal is being filed with this Court.

**WHEREFORE**, Merchants respectfully requests that the entire state court action under docket currently pending in the Superior Court of New Jersey, Camden County, be removed to this Court for all further proceedings.

Respectfully Submitted,

GOLDBERG SEGALLA, LLP

By: /s/ Nicole M. Crowley  
Nicole M. Crowley, Esq.  
*Attorneys for Merchants Mutual Insurance  
Company*

Dated: July 1, 2020